FAO No. 4144 of 2005 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 5.12.2006

Hans Raj

.....Appellant

Versus

Dinesh Kumar and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

.....

Present : Mr.Bahadur Singh, Advocate
for the appellant.

...

MAHESH GROVER, J. (O)

Delay in filing of the appeal is condoned.

The owner of the offending vehicle is in appeal against the recovery rights granted to the insurance company by the Motor Accident Claims Tribunal (Fast Track Court), Bhiwani vide award dated 24.3.2005 passed in MACT Petition No.11 of 2004.

The liability to pay the amount of Rs.2,60,000/- along with interest @ 9% per annum was fastened upon the appellant inasmuch as he was found plying the offending vehicle for hire and reward in violation of the terms of the condition of the insurance policy. However, the insurance company was made liable to pay the said amount in the first instance.

Learned counsel for the appellant while assailing the aforestated award referred to the statement of PW2 Hawa Singh who stated that he had yet to pay the fare of Rs.8/- to the driver of the

offending vehicle which was Tata Sumo. With particular emphasis on this part of the statement, it was contended that since no fare had been paid, the finding of the Tribunal that the vehicle was being plied for hire and reward was erroneous.

We have heard the learned counsel for the appellant and are unable to persuade ourselves to agree to the same. The fact that the vehicle was being plied for ferrying passengers, even though it was registered as a private vehicle, stands duly established from the statement of PW2, the effect of which cannot be watered down in the manner as suggested by the learned counsel for the appellant.

There is thus no infirmity in the findings recorded by the Tribunal and the appeal being devoid of merit is dismissed in limine.

(UMA NATH SINGH)
(JUDGE)

(MAHESH GROVER)
JUDGE

December 5, 2006

dss